



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,967	04/14/2004	Shain R. Brady	HTL0101PUS	5312

22045 7590 11/09/2005

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

EXAMINER

GEHMAN, BRYON P

ART UNIT	PAPER NUMBER
----------	--------------

3728

DATE MAILED: 11/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/823,967

Applicant(s)

BRADY, SHAIN R.

Examiner

Bryon P. Gehman

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| <p>1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/14/04</u>.</p> | <p>4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.</p> <p>5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6) <input type="checkbox"/> Other: _____.</p> |
|--|--|

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4, 9 and 11-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claims 4 and 9, line 3 of each, "the offset bar portion" lacks antecedent basis, as no such structure is previously defined. Also, the side to which the handle extends is not opposite the bar portion or bar cover, but a side perpendicular to the side having the bar portion or bar cover.

As to claim 11, line 3, "the motor housing enclosure portion" lacks antecedent basis as a term. See also claim 14, line 2 and claim 18, lines 2-3. In line 3, "the product package" lacks antecedent basis. See also claim 16, line 4. In line 4, "the carrying case slot" lacks basis for terminology, as the "slot" is not associated with the carrying case, but the motor housing enclosure.

In claim 14, line 3, "of thereof" does not make sense.

In claim 15, the term "carrying case motor housing enclosure" is inconsistent with previous terminology. Once defined each element should be consistently identified by the same terminology to be clear and consistent. See also claim 16, line 3.

In claim 16, line 5, since "product package" lacks antecedent basis, "product package opening" also lacks antecedent basis, while "opening" per se also lacks antecedent basis.

In claim 19, line 2, "the carrying case motor housing portion" lacks antecedent basis.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0273808. Disclosed is a chain saw having a conventional motor housing portion, elongate cutting bar and cutting chain, a carrying case (1) having an interior cavity and an elongate bar cover (4) and an offset slot (6) sized to receive an elongate bar cover of another similar carrying case.

As to claims 2-3 and 7-8, it appears the slot includes a hinged flap.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0273808. Disclosed in Figure 4 is a chain saw with a side handle extending transversely of the carrying case. To modify the carrying case of Figure 1 to tightly enclose such a chain saw would render the slot inboard of the side handle. To modify

Art Unit: 3728

the carrying case of Figure 4 to include a slot as in Figure 1 would allow for varied interengaging of the carrying cases in both manners in the same carrying case.

7. Claims 1, 4-6, 9-14 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson et al. (6,659,276) in view of EP 0273808. Anderson et al. disclose a chain saw having a conventional motor housing portion, elongate cutting bar and cutting chain, a carrying case (10C) having an interior cavity and an elongate bar cover (23). EP 0273808 discloses a similar carrying case including an offset slot (6) sized to receive an elongate bar cover of another similar carrying case. To modify the carrying case of Anderson et al. employing the offset slot teaching of EP 0273808 would have been obvious in order to interengage plural cases for stacking purposes, as suggested by EP 0273808.

As to claims 4 and 9, EP 0273808 discloses in Figure 4 a chain saw with a side handle extending transversely of the carrying case. To modify the carrying case of Anderson et al. to tightly enclose such a chain saw would render the slot inboard of the side handle.

As to claims 5 and 10, Anderson et al. disclose plastic to comprise the carrying case.

As to claims 11-14 and 19, Anderson et al. disclose an outer container or sleeve provided of paperboard (see column 4, lines 44-61) provided with point of sale graphics.

Art Unit: 3728

8. Claims 2-3 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 1 and 6 above, and further in view of Wenzel (2,890,791). Wenzel disclose a slot provided in a carrying case including a hinged flap (18) moveable to open or close the slot. To modify the slot of EP 0273808 to include a hinged flap as taught by Wenzel would have been obvious in order to render the slot selectively open or closed.

As to claims 3 and 8, the frictional engagement of the flap with its periphery provides a retainer for maintaining the flap in closed position.

9. Claims 15-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claim 11 above, and further in view of Zdarsky et al. (4,286,714). Zdarsky et al. disclose a sleeve (20) provided with a handle (31). To modify the prior art combination further employing a handled sleeve as disclosed by Zdarsky et al. would have been obvious in order to facilitate carrying of an article, as suggested by Zdarsky et al..

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are assorted chain saw carrying cases.

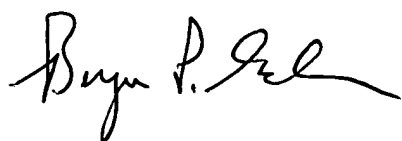
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571)

Art Unit: 3728

272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Bryon P. Gehman
Primary Examiner
Art Unit 3728

BPG